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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
6

7 DAVID HOWELL,

8 Plaintiff,

9 vs.

10 MEARES et al.,

11 Defendants.
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3:17-cv-00682-RCJ-CBC

ORDER

13 Plaintiff David Howell has submitted a complaint under 42 U.S.C. § 1983, attached to an
14 application to proceed in forma pauperis. The Court denies the application, because Plaintiff has
15 at least five “strikes” under the Prison Litigation Reform Act and does not allege imminent
16 danger of serious physical injury. 28 U.S.C. § 1915(g).¹ Specifically, Plaintiff has had
17 complaints dismissed for failure to state a claim in Case Nos. 3:04-cv-70 (Judge McKibben),
18 3:11-cv-114 (the undersigned), 2:11-cv-1383 (Judge Navarro), and 3:17-cv-736 (Judge Du). In
19 Appeal No. 18-15390, the Court of Appeals dismissed Plaintiff’s appeal in the ‘736 Case as
20 “frivolous.”
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22 ¹ Plaintiff alleges having been denied administrative segregation for some time, which put him at
23 risk because of his status as a witness. But he does not allege sustaining any injury before his
24 request to be put into administrative segregation was granted. He alleges a fear of entering the
prison yard for exercise, but he also alleges he has been able to avoid the yard by remaining in
his cell. The Court does not reach the merits of the underlying claims but finds that Plaintiff has
not alleged any imminent danger of serious physical injury for the purposes of § 1915(g).

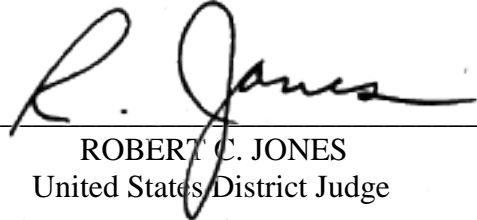
1 **CONCLUSION**

2 IT IS HEREBY ORDERED that the Application for Leave to Proceed in Forma Pauperis
3 (ECF No. 1) is DENIED.

4 IT IS FURTHER ORDERED that Plaintiff shall have twenty-eight (28) days to pay the
5 \$350 filing fee and the \$50 administrative fee. Failure to comply may result in dismissal without
6 prejudice without further notice.

7 IT IS SO ORDERED.

8 Dated this 14th day of January, 2019.

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11 ROBERT C. JONES
12 United States District Judge
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